



# Legislative Research Council

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## Memorandum

Monday, October 22, 2007

To: Members of the Joint Committee on Appropriations  
From: Fred Schoenfeld  
Chief Fiscal Analyst, LRC *FS*  
Subject: Informational Budgets - Financial Briefs

Pursuant to direction by Joint Committee on Appropriations (JCA) at the last meeting, the LRC fiscal staff has prepared the attached fiscal briefs on the 15 informational budgets in the FY08 General Appropriations bill which ranked highest in the Committee's initial screening. These briefs are designed to assist the JCA in making an initial decision as to which of the following options should be applied to each of these budgets:

1. No further action indicated
2. Transfer some or all of the fund balances to other purposes
3. Send to the administering agency a Letter of Intent communicating areas of particular concern to the JCA
4. Provide for additional appropriations oversight through hearings held by the JCA or its subcommittee
5. Initiate substantive legislation, e.g.:
  - a. Abolish the continuous appropriation
  - b. Abolish or consolidate a given budget unit with other units of state government
  - c. Adjust existing fiduciary responsibilities related to the budget
  - d. Etc.
6. Develop further information either by direct JCA hearings or by directing the staff to develop additional information.

The attached briefs address the questions of, "Who Benefits?," "Who Pays?," "Who Decides?," and "How Much is the Accumulated Fund Balance?"

In reviewing the financial briefs of each of these budgets, the Committee members may find it useful to keep in mind the following questions, which evolved from the staff review efforts:

- A. In most instances, there has in actual practice been considerable legislative oversight (i.e., audit, rules, agency review, and/or appropriations). Is this enough to ensure the budget is being administered in a manner consistent with the intent of the legislature?
- B. If this were the budget of a regular state agency, would you appropriate 100% of the agency's fund balance to its statutory purposes? (This is the effective result of the continuous appropriation, SEE below.)
- C. How large is the accumulated fund balance? Were monies from this fund transferred elsewhere by the administration in the past? What is the administering agency's justification for the accumulation?
- D. Is the continuous appropriation and possibly the accumulation of significant fund balances the ONLY way to deal with this situation?
- E. When key administrative functions are performed by a regular state agency, are they sufficiently different from the other duties of this agency to warrant special status?

## **Continuous Appropriation**

A continuous appropriation effectively authorizes an agency to spend the full amount in its fund balance. If the legislature attempts to intervene by reducing an informational budget in the general bill appropriation, it is not clear that action has a binding effect other than an expression of legislative intent. Any fund balance remains under the continuous appropriation and thus is generally considered to be available to the agency without legislative appropriation.

The only sure way for the legislature to place a dollar limitation on an informational budget without amending its base statute is to transfer all or part of the amount in the fund to the general fund or some other fund.

It appears that the continuous appropriation (which can be made in several forms, including the principle of necessary interpretation) is the operative factor here. The informational budget status merely requires the inclusion of the continuously appropriated budget in the Governor's Budget (but not in the general appropriations bill, except by custom and practice). In actual practice, informational budget status has not automatically exempted budgets from appropriations oversight or other legislative oversight.

## **Ongoing GOAC Review of "Other Funds"**

As discussed in the past, GOAC is conducting a review of agencies with "Other Funds" in parallel with this JCA effort. There is a substantial amount of overlap. The GOAC process is currently underway. It is not yet clear exactly what information will be transmitted for JCA consideration as the result. The most likely outcome will be



GOAC transmittals to the JCA on an exceptions basis, i.e., limited to those instances where GOAC recommends some specific JCA action. Therefore, we believe the JCA should react to the GAOOC recommendations if and when they are received.

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